

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
)	CPSC Docket No: 12-1
)	CPSC Docket No: 12-2
)	CPSC Docket No: 13-2
MAXFIELD AND OBERTON)	
HOLDINGS, LLC)	
AND)	
CRAIG ZUCKER, individually and as)	
an officer of)	
MAXFIELD AND OBERTON)	
HOLDINGS, LLC)	
AND)	HON. DEAN C. METRY
ZEN MAGNETS, LLC)	
AND)	
STAR NETWORKS USA, LLC)	
)	
)	
Respondents.)	
)	

ORDER REGARDING *IN CAMERA* MOTIONS

Background

On November 15, 2013, Counsel for the Consumer Product Safety Commission (CPSC) filed two separate motions: one for CPSC Docket No. 12-1, and one for CPSC Docket Nos. 12-2 and 13-2. CPSC indicated the Motions were filed *in camera*, and the Certificates of Service for the motions indicate each motion was served only on counsel of record for that particular docket number.¹

¹ CPSC Docket Nos. 12-1, 12-2, and 13-2 have been consolidated. However, the Certificates of Service indicate the Motion for CPSC Docket No. 12-1 was not filed with counsel of record for CPSC Docket Nos. 12-2 and 13-2, and vice versa.

On November 26, 2013, the undersigned issued a Show Cause Order, requiring the CPSC to provide an explanation as to why the Motions were filed *in camera*, and why they should not be made part of the public record.

On December 9, 2013, Counsel for CPSC filed Complaint Counsel's Response to November 26, 2013 Show Cause Order (Response). In the Response, Counsel explained the Motions were filed *in camera* because "Complaint Counsel and one of the Respondents were discussing the possibility of a settlement." The Response suggested that offers of settlement shall be filed *in camera*, and, as such, any reference to an offer of settlement should be filed *in camera*. The Response further explained settlement negotiations have terminated. As such, CPSC and Respondents do not object to the Motions being made part of the public record.

Discussion

Title 16 C.F.R. § 1025.26, "Settlements" provides, in relevant part:

Offers of settlement shall be filed in camera and the form of a consent agreement and order, shall be signed by the respondent or respondent's representative, and may be signed by any other party. Each offer of settlement shall be accompanied by a motion to transmit the proposed agreement and order to the Commission. The motion shall outline the substantive provisions of the agreement and state reasons why it should be accepted by the Commission. 16 C.F.R. § 1025.26(b). (Emphasis added).

In the instant case, the *in camera* Motion filed for CPSC Docket No. 12-1 does not include an offer of settlement. 16 C.F.R. § 1025.26(b). Instead, the Motion merely states that Respondents and the CPSC "have been engaged in settlement negotiations" and requests an extension of time.² The *in camera* Motion filed for CPSC Docket Nos.

² The Response further indicated CPSC no longer seeks additional time to provide its expert witness list.

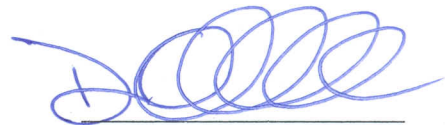
12-2 and 13-2 makes no mention of settlement.³ As such, both Motions shall be made part of the public record.

ORDER

WHEREFORE, both November 15, 2013 Motions shall both be made part of the public record.

SO ORDERED.

Done and dated this 11th day of December, 2013, at Galveston, TX



DEAN C. METRY
Administrative Law Judge

³ Further, as discussed, the Motion relating to CPSC Docket No. 12-1 was not served on counsel of record for CPSC Docket Nos. 12-2 and 13-2, and vice versa. See 16 C.F.R. § 1025.23(b) (“All written motions shall be filed with the Secretary and served upon all parties, and all motions addressed to the Commission shall be in writing.”). (Emphasis added). See also 16 C.F.R. § 1025.68, “Prohibited communications”, (defining “*ex parte communication*” as “[a]ny written communication concerning a matter in adjudication which is made to a decision-maker by any person subject to these Rules, which is not served on all parties...”). (Emphasis added).